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JCPS Conference Report No. 7:
Roundtable on the Future of Black Politics.

# FOCUS

## Winning Statewide Office

Illinois Comptroller Roland Burris discusses "the next frontier for black political leadership."

## Can Rico Stop Minority Business "Fronts"?

## Who Cares About the Black Aged?

A national organization focuses attention on the needs of the black elderly.

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Joint Center for Political Studies

# Perspective

During the past four years and eight months, some conservatives, including the president of the United States, have been preoccupied with an alleged gap between the views of black leaders and those of the black public. These commentators seem to believe that if they could document such a gap, they would discredit and thus silence the leaders—who happen to be critical of conservative policies.

A new voice has been added to the debate. Linda S. Lichter, co-director of the Center for Media and Public Affairs, has conducted a national telephone survey of blacks that purports to document the gap. Her findings were reported in the August/September issue of the American Enterprise Institute's *Public Opinion* magazine and in a September 24 op-ed article in the *New York Times*.

Dr. Lichter claims to have found sharp differences between black leaders and the black public on a wide range of subjects, from affirmative action to President Reagan's job performance. She has been quoted as saying she was "stunned" by these divergences, which suggest to her that "blacks are up for grabs politically." In view of the prominent place given this subject by the media, it is essential to scrutinize the Lichter study.

One major concern about her study is just who were the "leaders" she interviewed. Dr. Lichter says she interviewed 105 leaders from the NAACP, National Urban League, PUSH, Southern Christian Leadership Conference, National Conference of Black Mayors, and the Congressional Black Caucus, chosen, she says, from a list of "all those in executive positions as well as members of their boards of directors and trustees." Her interviewees, however, do not appear to be reasonably representative of the blacks who are perceived to be national leaders. The chief executive officers of the NAACP (Ben Hooks), National Urban League (John Jacob), the Congressional Black Caucus (Rep. Mickey Leland), and SCLC (Reverend Joseph Lowery) said they were not interviewed. Neither were such prominent national figures as Jesse Jackson, Coretta King, Vernon Jordan, Dorothy Height, Faye Bryant, and Mayor Ernest Morial. If those 10 leaders were not on a list of 105 interviewees, one wonders who is purporting to speak for black leaders in America and whether the Lichter survey is so skewed as to be suspect and misleading.

Another problem with her survey is its methodology. Respondents, asked a number of complex questions, were given only two choices from which to answer—and in some cases the choices do not even seem mutually exclusive. Moreover, one question purporting to show blacks' attitudes toward busing for school integration actually asked about busing "from one school district to another," a form of busing that is relatively infrequent and especially controversial.

These methodological problems probably account for many of the discrepancies between the Lichter survey and two other recent, extensively reported surveys of the black population that Dr. Lichter overlooks, one by the Joint Center and the Gallup Organization (see *Focus*, September 1984) and the other by Data Black, a New York opinion research firm. Both reported findings that differ sharply from those in the Lichter survey. For example, whereas Dr. Lichter found that 66 percent of blacks believe they are making progress, the JCPS/Gallup poll found that only 27 percent of blacks believe they have made progress in the past five years. Whereas Dr. Lichter found that 30 percent of blacks give President Reagan a favorable approval rating, the JCPS/Gallup poll found only an 8 percent approval rating. The findings in the Data Black poll contrast just as sharply with many of those reported by Lichter. Because it is highly unlikely that a dramatic shift in attitudes among blacks occurred in 1985, the extent of the discrepancies between the Lichter findings and the other surveys is puzzling, to say the least.

Clearly, much can be learned from surveys that seriously probe the attitudes of various segments of society and that shed light on differences between leaders and the masses they ostensibly lead. However, it is critical to distinguish between valid research efforts and those that are crippled by methodological flaws and tinged by political or ideological considerations.

**Eddie N. Williams**
**President**

**FOCUS**

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# Winning Statewide Office

**by Roland W. Burris**

*(The author has been comptroller of the state of Illinois since 1978 and is a vice chairman of the Democratic National Committee. He is one of three blacks currently holding statewide elective office in the United States.)*

Since the 1960s, the roster of black elected officials has expanded dramatically. As JCPS has documented, between 1970 and 1985 the total has increased more than fourfold, going from 1,469 in 1970 to 6,056 in 1985. And yet, even a cursory count of the total number of elective offices in various units of government reveals that black elected officials constitute but a thin layer of electoral power. Further growth is essential if anything resembling proportional representation is to be achieved.

Perhaps nothing indicates the thinness of black representation more than the elected executive/administrative branch of state government. Indeed, in this area the numbers have declined during the past seven years.

Admittedly, the number of black officials elected on a statewide basis was never large. In fact, even at its largest the group would have been hard-pressed to fill a table of ten at a fund-raising banquet. In 1978, when I was first elected comptroller of Illinois, there were two black lieutenant governors, one secretary of state, one treasurer, one superintendent of public instruction, and Edward Brooke was ending his lonely tenure as the only black U.S. Senator. Today our ranks have dwindled to three, a number that would lead any conservationist to call us an endangered species.*

Therein lies both a challenge and an opportunity.

For several months now I have been going around the country calling attention to the fact that statewide elected office remains virtually virgin territory awaiting exploration by black political pioneers. However, in this as in any other pioneering venture, winning statewide legislative or executive office will not be easy. That is one lesson my Illinois experience has taught me. That same experience teaches me something else: *it's possible.*

Illinois, like most states in the nation, has a heterogeneous population with diverse, and often conflicting, needs and aspirations that the population expects its state government to serve. To secure votes, I had to persuade the Illinois electorate that, although I could not satisfy each of their individual expectations, I would work tirelessly to serve the common good.

"The common good" is sometimes sneered at as a cliche of American politics; it endures because, at best, it includes everybody and excludes no one. And when it is sincerely pursued, it becomes an objective around which most citizens can rally. It is the foundation upon which winning coalitions can be built.

For my election, a coalition—of blacks, Hispanics, Asians, and white ethnics; of urban, suburban, and rural residents; of young and old; of all income classes and every social stratum—came together and trusted me to fulfill my promise to be the best comptroller Illinois had ever had. They gave me the desired majority, making me the first black constitutional (executive) officer in Illinois history.

Of course, being a first does not guarantee getting an encore. Performance counts. My first term found me dedicated to enhancing the state's fiscal integrity and accountability, ensuring the state both a triple-A bond rating and a high level of citizen confidence.

And I made an earnest effort to keep in touch with the people—listening to their concerns and responding sensitively to their needs whenever possible.

In 1982, I sought re-election as demonstrably "the best comptroller Illinois ever had." Evidently the people agreed, for they re-elected me with the third highest vote total in state history and the largest plurality of any state candidate from any party.

On September 18, 1985, I announced my candidacy for attorney general of Illinois. This time I shall be running as the candidate with an established record of serving the best interests of all the people. As in the past, I have advised the electorate that "I shall cooperate with everyone but bow to no one." That posture has earned me a few enemies, but it has cost me few friends.

Inevitably, when a black candidate seeks election outside the comfortable confines of a predominantly black constituency, the question of race comes up. My race is a fact, but I have not allowed it to be a determining factor in my campaign strategy (even if others have tried to make it one, by innuendo if not overtly). Rather, I proceed on the basis that if whites can represent blacks and whites, as they have for centuries, a black can do the same with equal effect.

At the same time, I do not take the black vote for granted. I campaign as strenuously in a black ward as I do in other wards. I pay as careful attention to what black voters say to me as I do to what I hear from other voters.

Now, what about money? Certainly it is a critical element in every campaign, and its importance seems even greater as one reaches for higher office. Its role is undeniably influential but not necessarily decisive. Since I have never had the luxury of adequate finances, I have tried to overcome that disadvantage with a combination of hard work, innovative campaigning, and some personal loans.

Having said all that, I realize that there is no foolproof system for winning an election. Sometimes, despite our best efforts, we fail. That's a risk inherent in politics—another lesson experience has taught me. In 1984, I was one of four candidates in the Democratic primary for a seat in the U.S. Senate. I lost to Congressman Paul Simon, finding some comfort in the fact that I was the runner-up.

That loss left me neither ashamed nor bitter. In contrast, if I hadn't made the effort, I would have felt disgraced. History abounds with illustrations of pioneers who fell short of their ultimate objectives but who, by venturing forth, cleared a path for the next wave of explorers. Trail-blazing is an integral part of advancement, economically, socially, and politically.

The challenge is there, the opportunity is there, but black political aspirants must seize the moment. To paraphrase Frederick Douglass, neither power nor progress concedes anything to us that we do not demand and strive for.

*In 1978, the lieutenant governors were Mervyn M. Dymally, California, and George Brown, Colorado. Richard H. Austin was secretary of state in Michigan, Henry E. Parker was treasurer in Connecticut, and Wilson C. Riles was superintendent of public instruction in California. In 1979, Vel Phillips became secretary of state in Wisconsin. Today, Austin, Parker, and myself are still in office.

# Can RICO Stop Minority Business "Fronts"?

**by Robert E. Suggs**

*(Mr. Suggs, a corporate attorney, is a senior research associate at the Joint Center.)*

At all levels of government, black elected officials are exerting a great deal of effort to enact minority set-aside legislation. Set-asides require certain governmental entities to make a specified percentage of their purchases from firms owned and controlled by minorities or women. Because set-asides redirect existing procurement instead of calling for new expenditures, in these fiscally stringent times they are one of the few ways in which substantial resources can be devoted to increasing the business and employment opportunities available to minorities. Federal set-aside awards of prime contracts reportedly account for $4 billion, or approximately 10 percent of all minority business revenues. Federal set-asides of subcontracts and awards made under state and local programs may add another 5-10 percent.

The available evidence, however, indicates that set-aside programs are being abused to the extent that a significant share of the contracts (especially the federal contracts) awarded under set-asides may be going to "fronts" (firms that falsely represent themselves as owned and controlled by minorities or women). In a recent interview on national television, an official of the U.S. Department of Transportation estimated that as many as 30 or 40 percent of the minority firms in its set-aside program might be fronts. In a lawsuit brought by an Ohio minority business organization, a court found that 75-85 percent of the awards under a minority procurement program for railroads went to woman-owned firms, many of which had been organized by white male suppliers and put under the nominal ownership of wives or female relatives to take advantage of the program. During fiscal 1983 the Inspector General of the U.S. Department of Transporation audited 70 firms awarded $56 million in set-aside contracts in an eight-state region under the Surface Transportation Assistance Act. The audit found that 18 of the firms (25 percent) were not owned and controlled by minorities or women and another 16 had not presented sufficient evidence to resolve questions about their ownership. Thus, only slightly more than half the firms were clearly owned by minorities. In addition, a disproportionately large share of the total dollars awarded ($44 million out of $56 million) went to the ineligible and questionable firms.

Given the value of set-aside programs and the degree to which they are being abused, having the programs purged of fronts is an important objective for minorities. Abuses not only divert resources from minorities, who are the intended recipients, but they are also being used to discredit set-aside programs.

Public resources for purging the programs of fronts are lacking, and so is the governmental will. The federal government, in particular, is not likely to make a sustained effort to curb abuses in set-aside programs. The U.S. Department of Justice has taken the position that it lacks authority to stop fronts from participating in these programs, while at the same time it resists congressional efforts to provide specific authority by legislation. Moreover, the Assistant Attorney General for civil rights enforcement alleges that all set-asides are unconstitutional and should be abolished. Therefore, if set-asides are to be purged of fronts, private initiatives by legitimate minority firms that benefit from set-asides will be necessary.

One statute exists that not only provides strong incentives for private enforcement but may also be used to impose punitive sanctions on fronts: RICO—the Racketeer Influenced and Corrupt Organizations Act (18 USCA sections 1961-1968). Enacted in 1970 as a remedy against organized crime, RICO could become a powerful tool for minority firms to use in eliminating fronts from set-aside procurement. Given the importance of set-asides to minority economic advancement, the possibilities offered by RICO are worth exploring.

Designed as a weapon to be used against organized crime and modeled on the antitrust laws to encourage enforcement by private firms and individuals, RICO provides both civil remedies and criminal penalties. A successful plaintiff in a civil lawsuit under RICO receives three times its actual damages plus actual (although reasonable) attorneys' fees. Criminal provisions not only impose fines and lengthy prison sentences, but also allow seizures and mandatory forfeitures of property.

The Justice Department virtually ignored RICO until 1975; today, however, in criminal cases against organized crime, it is the prosecutor's tool of preference. Private plaintiffs' lawyers did not discover RICO until 1979, and since then, several hundred RICO suits have been filed. But contrary to the expectations of the bill's authors, less than 10 percent of these suits involve either organized crime or the kinds of violent offenses associated with organized crime. The other 90 percent simply allege fraud in a commercial setting.

Some of the parties to RICO suits in commercial disputes have been among the nation's largest corporations. For example, IBM sued Hitachi under RICO, and the defendant settled for upward of $200 million. Another civil suit, one involving computer leasing fraud, was settled for $65 million.

How relevant is all this to minority firms that have lost contracts to fronts and receive no satisfactory response to their complaints? Potentially, very relevant. Normally, if a minority firm is the second lowest bidder and loses to a front, it has few effective legal remedies. It can, for example, sue for fraud to recover lost profits. Such a lawsuit was made possible by a federal court of appeals decision earlier this year (*Tectonics, Inc. of Florida* v. *Castle Const. Co.*) provided that state common law authorizes such a claim. But litigation is generally costly, and, except on large contracts, legal fees could well exceed the profits recovered. However, if RICO, with its civil remedy of triple damages and actual attorneys' fees, is a workable approach, its use could certainly prove advantageous to minority firms.

A person violates RICO by acquiring, controlling, or conducting an "enterprise" (defined very broadly and not restricted to a single corporate or business entity) by means of a pattern of racketeering activity. The statute defines racketeering activity as at least two violations, within a 10-year period, of certain state and federal criminal statutes ranging in coverage from arson to mail fraud. In a civil RICO suit, a plaintiff would allege that a pattern of criminal violations of the relevant state or federal statute had occurred.

*(Continued on page 5)*

**Joint Center for Political Studies**

**JCPS Conference Report** **Number 7, October 1985**

# Black Politics After the 1984 Elections

*On April 30, 1985, the Joint Center for Political Studies sponsored a conference on the 1984 presidential election and the future of black politics. Held at the Carnegie Endowment Conference Center in Washington, D.C., the conference featured scholars and political activists from across the nation.* ***Milton Morris*** *and* ***Edwin Dorn,*** *the center's director and deputy director of research, respectively, co-chaired the conference, and* ***Linda F. Williams,*** *senior research associate at the center and a conference participant, prepared this account.*

**Background**

To understand the hopes with which black Americans approached the presidential election of 1984 and the frustrations they experienced as the votes were cast and counted, one needs to recall the political atmosphere of 1982. In 1982 black Americans believed, quite reasonably, that they would play a significant role in the 1984 presidential election. Unemployment, the federal deficit, and poverty rates were all at very high levels, and President Ronald Reagan's own budget director had admitted that the "greed of the wealthy" had grown completely "out of control."

But by 1984, much had changed. As the economy improved, so did Reagan's personal standing. Poll after poll predicted first a Reagan victory and then a Reagan landslide.

The polls were right. Reagan triumphed decisively over his Democratic opponent, Walter Mondale, and he did so despite a very impressive political mobilization of blacks against him. For the first time, the black-white gap in registration shrank to only 3.3 percentage points (in 1980 it had been 8.4 percentage points), and the voter registration rate among black women was even higher than that among white men. The black-white gap in voter turnout also narrowed dramatically, going from 10.4 percentage points in 1980 to 5.6 percentage points in 1984.

These were significant achievements; yet black hopes of playing a decisive role in the presidential election were not fulfilled. Not only did the presidential candidate supported by 90 percent of blacks go down to overwhelming defeat, but the Congressional Black Caucus lost one member (as the total number of blacks in the U.S. House of Representatives dropped from 21 to 20), and the number of black state legislators increased merely by 7 (in the 1982 elections it had increased by 45). Only at the local level did black political candidates make significant gains: 350 additional blacks were elected to local office.

Although the results of the elections of 1984 are clear, the meaning for blacks is clouded. To examine the significance of the elections for black Americans, the Joint Center invited political analysts from across the nation to a one-day conference to explore four subjects: the voting behavior and political attitudes of blacks

*Left to right: James Jackson, Robert Holmes, Gracia Hillman, Thomas Cavanagh, Hanes Walton, Robert Starks*

*Left to right: Lucius Barker, C. Vernon Gray*

and whites in 1984; the purposes, limitations, and achievements of Jesse Jackson's campaign; the political challenges facing black Americans in the second half of this decade; and strategies for black politics in the immediate future.

**Voting Behavior and Political Attitudes**

The primary and general elections of 1984 vividly demonstrated enormous differences between the voting behavior of blacks and that of whites. Jesse Jackson won 77 percent of the black vote in the Democratic primaries but only 5 percent of the white vote; Gary Hart won 43 percent of the white vote, yet only 3 percent of the black vote. The one candidate able to attract more than a small percentage of both white and black Democratic voters, Walter Mondale, received 19 percent of the black vote and 42 percent of the white vote in the primaries. In the general election, however, he won the black vote overwhelmingly, whereas Reagan won the white vote (and especially the white Southern vote) overwhelmingly. Clearly, blacks and whites supported different candidates in 1984.

To explain those differences, **Thomas Cavanagh,** at that time a senior research associate at the Joint Center and now on the staff of the National Research Council of the National Academy of Sciences, made use of data from a JCPS/Gallup poll of black and white populations. The findings of the poll, Cavanagh pointed out, revealed that the differences between blacks and whites in voting behavior stemmed from starkly divergent evaluations of the state of the nation, of the state of race relations, and of several economic and political issues.

For example, whereas almost half the whites polled in the survey (48 percent) were satisfied with "the way things [were] going" in the United States, only a small minority of blacks (14 percent) were satisfied. Whereas more than two out of every five whites (46 percent) said they were better off financially than they had been four years earlier, more than two out of every five blacks (43 percent) felt they were worse off. Whereas only 4 percent of whites felt the situation of blacks had worsened in the preceding five years, 30 percent of blacks felt their situation had worsened. Asked to name the three most important issues in the presidential campaign, blacks gave highest priority to unemployment (65 percent), government programs to aid the poor (45 percent), and civil rights (38 percent). Whites, however, divided almost evenly among unemployment (42 percent), the federal deficit (42 percent), and inflation (40 percent). Whites approved of Reagan's job performance by 57 to 32 percent; blacks disapproved by 73 to 23 percent. Whites heavily considered Reagan better at getting things done and being a strong leader; blacks almost as heavily considered Mondale harder working and a stronger leader. Cavanagh concluded that such gaps in perception could lead one to wonder whether blacks and whites were even following the same campaign and reacting to the same candidates.

**Jesse Jackson's Campaign**

In no respect did black and white voters differ from each other more than in support for Jesse Jackson. Among conference participants, too, Jesse Jackson's candidacy generated the greatest amount of disagreement. Participants debated the purposes of the campaign, as well as its limitations and achievements.

On the one hand, for **Lorn Foster,** professor of government at Pomona College, **Robert Smith,** professor of political science at Howard University, **William Crotty,** professor of political science at Northwestern University, and others, the Jackson campaign was a social movement rather than a race for the presidential nomination. According to Foster, blacks who voted for Jackson did so to challenge the social order and established leadership, black and white. Smith held that the campaign represented a new beginning for blacks, much as Montgomery (Alabama) represented a beginning for the civil rights movement. Crotty argued, moreover, that as a social movement, the Jackson campaign was exceptionally successful, given the numerous handicaps it faced: it was poorly funded; was opposed not only by white leaders of the Democratic party but also by many black leaders; was portrayed unfairly by the media; and was run by a staff that was, at best, inexperienced. Yet, Crotty pointed out, despite those difficulties Jackson mobilized black voters; disproportionately attracted young, educated, and Southern black voters; did better than most would have predicted in the primaries (winning 19 percent of the popular vote and the votes of more than 400 delegates to the Democratic National Convention); and spoke to his constituency's concerns (especially those involving the third world, in particular South Africa and the Caribbean countries) in a way that forced other candidates to address the same questions.

On the other hand, **Martin Kilson,** professor of government at Harvard University, **Roger Wilkins,** senior fellow at the Institute for Policy Studies, and **Adolph Reed, Jr.,** professor of political science at Yale University, saw the Jackson campaign as a race for the presidential nomination. And, Reed held, in those terms the campaign failed to meet any of the objectives claimed for it by its managers. The campaign, he said, exposed Americans to few new issues; did not represent the poor black masses as opposed to entrenched black elites; could not be credited with single-handedly increasing black voter registration and turnout, since those figures were rising long before the campaign began; had little, if any, coattail effect in getting other blacks elected; and, because of the "crusade" hype surrounding it, tended to inhibit rational political discourse by attempting to force all blacks to support Jackson or be stigmatized as traitors to their race. In short, from Reed's viewpoint Jackson achieved little.

All participants, however, agreed that whatever the Jackson campaign may have represented and achieved, it failed to build a multi-ethnic "rainbow coalition." Although Jackson received about 806,000 votes from non-blacks, a potent multi-ethnic coalition simply did not emerge. Most conference participants agreed that the principal barriers to Jackson's coalition-building were Jackson's race, the racism and conservative orientation of many white Americans, and the media's handling of his campaign. Yet, according to **Lucius Barker,** professor of political science at Washington University, Jackson's presidential campaign may have planted the seeds of a progressive, multi-ethnic, multi-racial coalition.

### After 1984: Challenges Facing Black Americans

Most of the conference participants agreed that black Americans face five major difficulties in the present political climate: (1) gaining substantial power within the Democratic party and influencing the party to promote more actively the interests of minority Americans; (2) encouraging the Republican party to seek black votes by supporting programs important to black Americans and by running black candidates for elective office; (3) halting the growing conservative trend in public policies and priorities; (4) preventing black voter registration and turnout from declining in reaction to the 1984 election results; and (5) strengthening the unity of black political leadership.

**Robert Holmes,** professor of political science at Atlanta University and a Georgia state legislator, believed that, at best, the Democratic party was still taking black votes for granted and, at worst, might be abandoning the concerns of black Americans and moving to the right to shed its image as a party of "special interests."

He also believed that Republicans were still writing off black votes and would probably continue to ignore issues important to blacks, since in the past two presidential elections they had proved that they could win without black support. Cavanagh disagreed, claiming that the Republicans, in their attempt to become the majority party, would seek to attract black voters.

**George Dalley,** counsel and staff director of Congressman Charles Rangel's office and formerly a senior campaign aide to Vice President Mondale, pointed out that one of the most important challenges to black Americans in the mid-1980s was the increasing conservatism of American public policy. In Reagan's first term, liberal programs and priorities had been cut back and reversed. The number of equal employment opportunity lawsuits filed had decreased, and strict enforcement of civil rights and voting rights regulations had not been pursued. After four more years in office, the Reagan administration would have appointed to lifetime terms more than 150 federal judges, possibly including a majority of the justices of the U.S. Supreme Court. In this climate, Dalley argued, voting rights laws and affirmative action goals and timetables were facing—and would continue to face—repeated challenges.

Dalley also said that blacks (especially young blacks) might become disillusioned with electoral politics in reaction against the limited achievements of the Jackson campaign, the Democratic party's apparently diminishing concern with the issues that are important to blacks, and the increasing influence of conservatives. The way to ward off such disillusionment, he believed, was for blacks to work together regardless of whom they supported in the 1984 primary elections.

### Possible Strategies for Black Politics

The participants did not endorse any single strategy for black politics but discussed two possible approaches: maximizing the leverage of blacks within the Democratic party and bargaining with both major parties. They also discussed the role of the government and of private individuals and groups in resolving the economic difficulties of poor black and white Americans.

Dalley believed that instead of abandoning the Democratic party at this time, blacks should try to maximize their strength within the party by demanding more power and more leadership positions. Cavanagh added that blacks should take a two-pronged approach to the Democratic party, adopting a more independent stance within the party as well as fielding independent candidacies where local conditions warranted.

*Left to right: Michael Frazier, Eleanor Farrar, Linda Williams, Adolph Reed, Jr.*

Cavanagh also suggested, however, that blacks should position themselves to bargain with both parties. He predicted that since Reagan would not be running in 1988 and none of the potential Republican contenders had Reagan's personal popularity among whites or generated the same degree of antipathy among blacks, blacks would be better placed to bargain with both major parties.

In comparing the probable impact of a stronger government role with the probable impact of additional self-help initiatives, the conference participants were divided in their preferences. Robert Smith did not believe that economic development should be approached in terms of self-help; he argued that black Americans at the lowest rung of the socioeconomic ladder could make no substantial progress without significant government intervention. Viewing the "self-help" philosophy as an acceptance of Reaganomics, he held that blacks had always helped themselves but that, as taxpayers and citizens, they had a right to expect a government responsive to their needs, and he expected the self-help approach to be short-lived. In contrast, Robert Holmes saw a need to place more stress on black economic self-development and argued that doing so would be a change for the better, since the current political strategies of blacks were not very productive.

**Conclusion**

The future that looked so promising to blacks in 1982—the possibility that they would play a pivotal role in the next presidential election—clearly did not materialize. Most conference participants, however, were optimistic, believing that the enormous increases in black voter registration and turnout and the impressive gains in the election of blacks to local office were laying the groundwork for important political advances. Thus, probably the most significant recommendation of the conference was that black leaders and black groups should continue to register the unregistered, fight for full enforcement of the Voting Rights Act, and recruit young blacks, both male and female, to run for public office.

**List of Participants**

Chris Arterton, Yale University
Lucius Barker, Washington University
Robert Bates, Jr., Mobil Oil Corporation
C. Anthony Broh, Princeton University
Ron Brown, University of Michigan
Thomas Cavanagh, National Academy of Sciences
William Crotty, Northwestern University
George Dalley, Congressman Charles Rangel's Office
Edwin Dorn, Joint Center for Political Studies
Eleanor Farrar, Joint Center for Political Studies
Lorn Foster, Pomona College
Michael Frazier, Fund for a Democratic Majority
C. Vernon Gray, Morgan State University
Gracia Hillman, National Coalition on Black Voter Participation
Robert Holmes, Atlanta University
James Jackson, University of Michigan
Martin Kilson, Harvard University
Leslie McLemore, Jackson State University
Milton D. Morris, Joint Center for Political Studies
Michael B. Preston, University of Illinois-Urbana
Adolph Reed, Jr., Yale University
Robert Smith, Howard University
Robert Starks, Northeastern Illinois University
Hanes Walton, Savannah State College
Roger Wilkins, Institute for Policy Studies
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*Left to right: C. Anthony Broh, Roger Wilkins, Milton Morris, Chris Arterton*

In a RICO suit against a minority front firm that had won a minority set-aside contract, the criminal violation that could most easily be shown is mail fraud. Mail fraud is a federal offense arising from use of the mail in commission of a fraud, and it applies, among other things, to the kind of deliberate misrepresentation of ownership and control that is found with minority fronts. To establish the racketeering pattern, the second-lowest-bidder minority firm has only to establish that at least two acts of mail fraud within the preceding 10 years did, in fact, occur. According to a recent ruling by the U.S. Supreme Court, the plaintiff does not have to prove that the defendant was actually convicted of the violation. For the final element to be shown in such a suit—injury to the plaintiff—the plaintiff must show that, but for the fraud, the plaintiff would have received a contract that was awarded, instead, to the front.

These essential elements of bringing suit under RICO will be present in many front situations. Bidding procedures usually involve use of the mail, and even a lax minority business certification program will require applicant firms, as a condition of eligibility, to claim they are minority-owned and minority-controlled—claims that, if proved deliberately false, would be fraudulent. Moreover, key documents needed to prove RICO violations (bid documents, certifications filed to claim minority status, articles of incorporation, etc.) offer the practical advantage of being in government files, beyond a defendant's control.

In most cases, the requirement of a previous violation is easily met. Audits that have unearthed fronts often show that the same front has been awarded several contracts; and even if a separate front has been organized for each contract, the majority-owned firm or individual that sponsored the fronts would still be the potential defendant with the deepest pocket. By giving evidence that the same sponsor had used either the same front or a different one in previous attempts to obtain a contract, a plaintiff could show the requisite previous offense.

The plaintiff would then have to show the extent of its injury. Lost profits would probably be the best measure, so the plaintiff's claim for damages would be for three times the profits it lost because of the fraud.

When fronts participate in set-aside programs with the acquiescence or connivance of public officials, or when public administrators and local governments have deliberately refused to tighten up lax eligibility and certification procedures, the officials or their governments may also be added to the suit as defendants.

More than 20 states have "little RICO" statutes (and at least half-a-dozen more have legislation pending), and most provide an independent basis for private enforcement in state courts. Those statutes, like the federal RICO, authorize both civil suits by private firms and criminal proceedings by local prosecutors.

Some "little RICO" statutes have less to offer in terms of potential recoveries for private litigants in civil suits than the federal RICO, and some have considerably more. Nearly all allow coordination with the local prosecutors who are responsible for law enforcement in the jurisdiction with the set-aside program. State criminal penalties vary in the fines and prison sentences they impose; some state statutes authorize the seizure of property and assets used in the RICO enterprise and their forfeiture to the state. In the context of a construction company sponsoring a front, for example, the property forfeited would include the proceeds of the fraudulently obtained contract as well as the controlling person's ownership interest in the sponsoring firm and in the front.

RICO, in offering the prospect of criminal enforcement by state and local prosecutors and the incentive of treble damages and attorneys' fees for private enforcement, may well provide minority firms with the tool they need for eliminating fronts from set-aside procurement.

Editor's Note: Written inquiries about this approach to the problem of fronts in set-aside programs may be addressed to Mr. Suggs at the Joint Center for Political Studies.

## NBCSL Conference Slated for December 3-8

The National Black Caucus of State Legislators (NBCSL) will hold its Ninth Annual National Conference December 3 through 8, 1985, at the Hershey Hotel in Philadelphia.

According to NBCSL president Maryland State Senator Clarence M. Mitchell, III, "We anticipate a very active and highly visible conference in Philadelphia, including attendance by minority businesses, corporate representatives, nonprofit organizations, professional associations, and community groups, as well as our nationwide membership of state lawmakers."

Founded in 1977, the NBCSL has a membership comprising 390 state elected officials representing 42 states. The Caucus serves as a national network for the exchange of legislation, the sharing of expertise, and the formulation of policy strategies affecting the legislators' combined constituencies of over 26 million voters.

For more information about the upcoming conference, call (717) 787-3181.

## NBC/LEO Meeting Set for December 7

The National Black Caucus of Local Elected Officials (NBC/LEO) is holding its annual meeting on Saturday, December 7, 1985, in Seattle, Washington. For more information call Alice Thompson at (202) 626-3510.

# Who Cares About the Black Aged?

**by Richard H. Mapp**

*(Mr. Mapp is a vice president of the National Caucus and Center on Black Aged, Inc., in Washington, D.C.)*

The American population is aging. Whereas in 1980 11 percent of the total population was 65 years of age and older, by July 1984 the figure had risen to 12 percent, and the U.S. Census Bureau expected that trend to continue at least until 1993.

For many people, and especially blacks, old age is accompanied by a decline in living standards. Consider these facts:

- black elderly Americans are nearly three times as likely to live in poverty as white elderly Americans; and 57 percent of black elderly Americans have no income except Social Security and Supplemental Security Income benefits;*
- black elderly Americans are nearly three times as likely to be unemployed as their white counterparts;
- 58 percent of the black elderly own their own homes, compared with 72 percent of the white elderly; and
- in comparison with white elderly households, black elderly households are 4 times as likely to lack complete kitchen facilities, 3½ times as likely to lack plumbing, 3½ times as likely to lack telephones, 2½ times as likely to have no central heat, and 2 times as likely to have no automobile.

The National Caucus and Center on Black Aged, Inc. (NCBA), has developed policy recommendations to respond to these problems. They focus on income, employment, health, long-term care, housing, crime, supportive and nutrition services, and education, research, and training.

**Income.** The main problem confronting elderly blacks today (especially elderly black women) is inadequate income in retirement. In 1983, 36.3 percent of all blacks 65 or older (but 41.7 percent of black women in the same age group) lived below the poverty line (had an annual income under $4,775 for an individual, $6,023 for a couple). The comparable figure for all elderly whites was 12.0 percent. Annual incomes under $10,000 were reported for 76.1 percent of elderly black males and 93.1 percent of elderly black females.

Social Security benefits account for 62 percent of the income received by elderly blacks, and Supplemental Security Income accounts for 11 percent.

NCBA's 1985 policy recommendations concern Social Security and Supplemental Security Income (SSI) benefits. For Social Security, NCBA recommends that (a) Congress neither cap nor freeze cost-of-living adjustments; (b) a special consumer price index be established to measure better the impact of inflation upon the beneficiaries of Social Security and SSI; (c) the age of eligibility for full benefits revert from 67 to 65 because blacks and other minorities have a shorter life expectancy than whites; and (d) the Social Security Administration ensure that those entitled to SSI benefits actually receive them.

For SSI, NCBA recommends that (a) income standards be raised above the poverty line so that blind or disabled aged persons can have enough income for daily living expenses; and (b) recipients of SSI be allowed to live in the household of another person, receiving maintenance and support, without a reduction in SSI benefits (in other words, children should not be discouraged from helping parents or grandparents).

**Employment.** In 1983, the unemployment rate for blacks 65 or older was 9.3 percent; for whites, 3.2 percent. To maximize job opportunities for older black workers, NCBA recommends (a) greater funding for the Title V Senior Community Service Employment Program; (b) enforcement of the Age Discrimination in Employment Act; (c) abolition of mandatory retirement; (d) liberalization of the earnings limitation as a condition for receipt of Social Security benefits; and (e) repeal of the two-stage reduction in the Title V administrative cap.

**Health.** All barometers indicate that the health of elderly blacks is worse than that of elderly whites. The most pertinent statistics are those for life expectancy. Black males born in 1982 had a life expectancy of 64.9 years; white males, 71.5 years; black females, 73.5 years; and white females, 78.8 years. Moreover, the health-care system in the United States makes preventive medicine and quality care available to those in the middle class but provides only institutional care to low-income persons. And the protections of Medicare and Medicaid, so vital to all elderly Americans, have been whittled down in recent years.

NCBA recommends (a) resisting further cutbacks in both Medicare and Medicaid protection and strengthening the financing of both programs by controlling providers' costs; (b) capping out-of-pocket payments for hospital and medical services under Medicare until a universal, comprehensive national health insurance program with built-in cost controls is enacted; (c) keeping the age of eligibility for Medicare at 65; (d) promoting use of preventive health measures and encouraging development of alternatives to institutional care; (e) targeting funding for the National Institutes of Health at diseases that especially affect the elderly and minorities; and (f) establishing a National Institute of Arthritis and Musculoskeletal and Skin Diseases.

**Long-Term Care.** "Long-term care" refers to a wide range of services (in both institutional and noninstitutional settings) for people with chronic ailments. The country's health-care system has a built-in bias toward institutionalization, but home care should be emphasized much more than it has been up to now. Moreover, institutions that offer long-term care have tended to underserve elderly blacks, partly because of the institutions' high costs and discrimination and partly because many elderly blacks look on nursing homes with suspicion.

NCBA recommends the following: (a) national health policies should recognize that the family is the largest provider of long-term care for elderly blacks; (b) state agencies should strengthen their ombudsman programs for nursing homes; (c) the administration of drugs in nursing homes should be better regulated; (d) civil rights legislation on the accessibility of long-term care should be enforced; and (e) the Geriatric Research, Education, and Train-

*(Continued on page 8)*

*Supplemental Security Income guarantees the income of the blind or disabled low-income elderly to a level approaching the official poverty level.

# Telescope

**JCPS Announces Its Second Annual Distinguished Scholars Competition**

The Joint Center now welcomes applications for its second annual Distinguished Scholars competition. The program, funded by a grant from the MacArthur Foundation, enables outstanding scholars and public policy analysts to spend up to one year in residence at the Joint Center in Washington, D.C., conducting research on issues of fundamental importance to black Americans. A maximum stipend of $60,000 will be given to the scholar selected for the 1986-87 program year.

The scholar selected for the 1985-86 program year was Frank R. Parker, director of the Voting Rights Project at the Lawyers' Committee for Civil Rights Under Law. He is spending his fellowship year writing a book on the political and social history of Mississippi from 1965 to 1980, with emphasis on the increase in black political participation. Parker describes his time at the center as "an extremely valuable experience, giving me the chance to do the kind of research I've wanted to do for 15 years."

The scholar selected will have great flexibility in planning a program of activities for the fellowship year. She/he will be expected to complete at least one major piece of publishable research on a topic of mutual interest to the scholar and the Joint Center. The scholar also will participate, as appropriate, in the Joint Center's on-going activities.

Applicants should have a record of substantial publication and distinguished work in their field. Special consideration is given to applicants whose research interests coincide with those of the Joint Center.

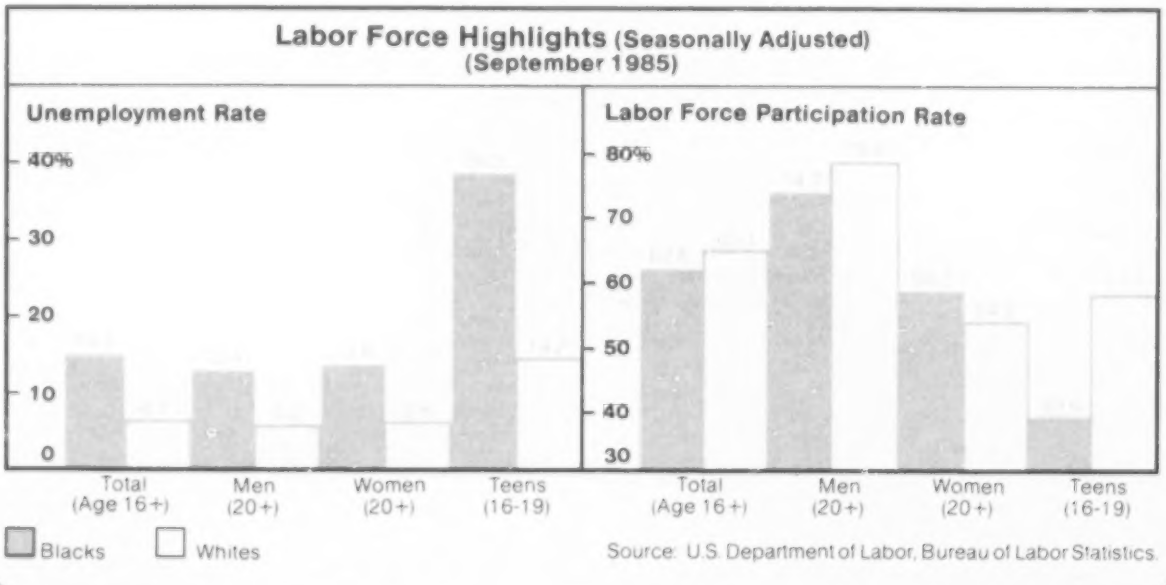
Applicants for the 1986-87 program year should submit a curriculum vitae and a statement of no more than 2,500 words describing the project to be completed during their stay at the Joint Center and the relationship between their interests and the Joint Center's work. Applicants should arrange to have two letters of support for the project sent to the Joint Center, indicating the candidate's ability to complete the work successfully. Applications must be postmarked no later than January 5, 1986. Finalists must be available for an interview in Washington, D.C., early in January. The award will be announced by January 30, 1986.

For further information, please write to Dr. Milton D. Morris, Distinguished Scholars Program, Joint Center for Political Studies, 1301 Pennsylvania Avenue, N.W., Suite 400, Washington, D.C. 20004; or call (202)626-3562.

**Labor Force Highlights**

Presented below are the unemployment and labor force participation rates of blacks and whites, by age and sex, for September 1985. The unemployment rate measures the percentage of the labor force that is unemployed. The labor force participation rate measures the percentage of the total noninstitutionalized population that is employed or seeking work. The figures have been "seasonally adjusted"—that is, the changes in these indices that result from seasonal events have been factored out.

The labor force statistics for August showed declining unemployment rates for blacks. That trend did not continue into September. The overall unemployment rate for blacks rose by 1.3 percent in September; at 15.3 percent, it was 0.3 percent higher than it had been before the August decline. Hardest hit were males and teenagers. For whites, in contrast, the unemployment rates declined, except for adult women. Since the labor force participation rates for both races increased, apparently new white entrants were absorbed into the labor market more easily than new black entrants were.




Source: U.S. Department of Labor, Bureau of Labor Statistics.

## . . . Black Aged?

*(Continued from page 6)*

ing Act should include special provisions that promote the training of black health-care professionals.

**Housing.** Housing is the main expenditure for the elderly and, at the same time, perhaps the most visible sign of their deprivation: 13.5 percent of the houses in which elderly blacks live are without central heat, and elderly blacks are 3½ times as likely as elderly whites to lack plumbing for their exclusive use.

NCBA recommends the following: (a) Congress should retain funding for new housing construction, housing rehabilitation, and other housing assistance and should enact into law the 1985 Housing Act (H.R. 1); (b) Section 202 housing (housing for the elderly and handicapped) should be continued; (c) the congregate housing services program should be made more than a demonstration program; (d) the Title V Senior Community Service Employment Program should focus increased attention on home repairs; (e) the cap on rents for tenants in federally assisted housing should be reduced by 5 percent; and (f) Congress should prohibit the Department of Housing and Urban Development (HUD) from requiring competitive bidding for section 202 projects; should bar HUD from significantly lowering the current section 202 per unit cost limitations; should prevent HUD from requiring more than 25 percent of section 202 units to be efficiencies; should cap section 202 loans at an interest rate of 9.25 percent; and should prevent HUD from requiring a minimum capital investment exceeding $10,000 for section 202 proposals.

**Crime.** Freedom from fear is one of the greatest needs of elderly blacks, who are much more likely to be victims of crime than are elderly whites. Afraid to venture out into crime-ridden neighborhoods and lacking the resources to move to a safer neighborhood, many elderly blacks live under a form of house arrest. They may also be reluctant to report crimes, fearing retaliation and having no confidence in the criminal justice system.

NCBA recommends that (a) efforts to combat crime focus on prevention; (b) community crime-prevention services be coordinated with a wide range of other services to ensure a more comprehensive approach that reduces crime and helps victims; (c) the local community be involved; (d) strong and effective handgun control laws be enacted; and (e) the U.S. Civil Rights Commission investigate hate groups that encourage violence against elderly blacks and other minorities.

**Supportive and Nutrition Services.** Older Americans with transportation at their disposal have a much easier time facing the challenges posed by advancing age, but many older Americans find public transportation unavailable, inaccessible, or too costly. Although the Older Americans Act has helped deliver a wide range of services for the aged—not transportation only, but also congregate meals, home-delivered meals, outreach, information, and referral—the recent report of the Civil Rights Commission emphasized that the need to serve aged minorities more effectively and more equitably still exists.

NCBA recommends (a) full enforcement of the 1984 amendments to the Older Americans Act; (b) a three-year extension of the Legal Services Corporation; (c) passage of the 1985 Food Stamp and Commodity Distribution Improvement Act; and (d) enactment of the 1985 Civil Rights Restoration Act.

**Education, Research, and Training.** The need for these activities is surely obvious. NCBA recommends (a) increased funding for the Older Americans Act Title IV; (b) initiatives to serve elderly minorities more effectively; (c) additional research on the shorter life expectancy of minorities; and (d) passage of the Geriatric Research, Education, and Training Act.

Clearly, the problems of America's black elderly need more attention from organizations like NCBA, from government, and from individuals. Our elderly are a precious human resource, and we all have a stake in their well-being.

Editor's Note: For more information on the black elderly, write to the National Caucus and Center on Black Aged, Inc., 1424 K St., N.W. (Suite 500), Washington, D.C. 20005.

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